

Department of the Navy, DoD

§ 757.6

time of recovery. (10 U.S.C. 2782.) For damages to personal property, the money is returned to the general treasury.

(g) *Installment payments.* See 31 CFR 901.8 for specific procedures. In general, if the debtor is financially unable to pay the debt in one lump sum, an installment payment plan may be arranged. Installment payments will be required on a monthly basis and the size of payment must bear a reasonable relation to the size of the debt and the debtor's ability to pay. The installment agreements should specify payments of such size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$50.00 per month should be accepted only if justified on the grounds of financial hardship or for some other reasonable cause. In all installment arrangements, a confession of judgment note setting out a repayment schedule should be executed.

(h) *Damage to nonappropriated-fund instrumentality (NAFI) property.* Any amount collected for loss or damage to property of a NAFI shall be forwarded to the headquarters of the non-appropriated-fund activity for deposit with that activity. In those situations where the recovery involves damage to both NAFI-owned property and other Government property, e.g., destruction of an exchange building resulting in damage to both the building and the exchange-owned property inside, recovery for the exchange-owned property shall be forwarded to the NAFI. Recovery for building damage shall be deposited in accordance with § 757.5(f) above.

(i) *Damage to industrial-commercial property.* When a loss or cost of repair has been borne by an industrial-commercial activity, payment shall be deposited in the Navy Industrial Fund of the activity in accordance with the provisions of the Navy Comptroller Manual. When a claim is based on a loss or damage sustained by such an activity, a notation to this effect shall be included in any claim file forwarded to the Judge Advocate General.

(j) *Replacement in kind or repair.* The responsible party, or insurer, may want to repair or replace in kind damaged property. The commanding officer or officer in charge of the activity sus-

taining the loss is authorized to accept repair or replacement if, in his discretion, it is considered to be in the best interests of the United States.

(k) *Release.* The Supervisory Attorney, Tort Claims Unit, Norfolk is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

[57 FR 5072, Feb. 12, 1992, as amended at 72 FR 53427, Sept. 19, 2007]

§ 757.6 Waiver, compromise, and referral of claims.

(a) *Officials authorized to compromise claims.* The officers identified in § 757.5(b) may collect the full amount on all claims, and may compromise, execute releases or terminate collection action on all claims of \$20,000.00 or less. Collection action may be terminated for the convenience of the Government if the tortfeasor cannot be located, is found to be judgment-proof, has denied liability, or has refused to respond to repeated correspondence concerning legal liability involving a small claim. A termination for the convenience of the Government is made after it is determined that the case does not warrant litigation or that it is not cost-effective to pursue recovery efforts.

(b) *Claims over \$100,000.00.* Claims in excess of \$100,000.00 may not be compromised for less than the full amount or collection action terminated without approval from the Department of Justice (DOJ).

(c) *Notification.* The Judge Advocate General shall be notified prior to all requests made to the DOJ to compromise, terminate collection, or referral for further collection action or litigation.

(d) *Litigation reports.* Litigation reports prepared in accordance with 31 CFR part 904 shall be forwarded through the Judge Advocate General (Claims and Tort Litigation) to the Department of Justice along with any case file for further collection action

or litigation as required by the Federal Claims Collections Standards.

[57 FR 5072, Feb. 12, 1992, as amended at 72 FR 53428, Sept. 19, 2007]

§§ 757.7–757.10 [Reserved]

Subpart B—Medical Care Recovery Act (MCRA) Claims and Claims Asserted Pursuant to 10 U.S.C. 1095

§ 757.11 Scope of Subpart B.

Subpart B describes the assertion and collection of claims for medical care under the MCRA and 10 U.S.C. 1095. The MCRA states that when the Federal government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party who is legally liable for the injury or disease. Title 10 U.S.C. 1095 provides for the collection from third-party payers for the value of health care services incurred by the Government on behalf of covered beneficiaries.

[72 FR 53428, Sept. 19, 2007]

§ 757.12 Statutory authorities.

(a) *Medical Care Recovery Act*, 42 U.S.C. 2651–2653 (2005).

(b) *Title 10 U.S.C. 1095* (Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-Party Payers).

(c) *Title 10 U.S.C. 1079a* (CHAMPUS: Treatment of Refunds and Other Amounts Collected).

[72 FR 53428, Sept. 19, 2007]

§ 757.13 Responsibility for MCRA actions.

(a) *JAG designees*. (1) Primary responsibility for investigating, asserting, and collecting Department of the Navy (DON) MCRA claims and properly forwarding MCRA claims to other Federal departments or agencies rests with the following personnel:

(i) Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division) (Code 15); and the

(ii) Commanding Officer, Naval Legal Service Command Europe and South-

west Asia (NLSC EURSWA), Naples, Italy, in its area of geographic responsibility.

(2) JAG designee may assert and receive full payment on any MCRA claim. Code 15 may agree to compromise or waive claims for \$100,000 or less. NLSC EURSWA may agree to compromise or waive claims for \$40,000.00 or less. NLSC EURSWA claims in excess of \$40,000.00 may be compromised or waived only with Code 15 approval. See Sec. 757.19 for further discussion of waiver and compromise.

(b) *Navy Medical Treatment Facility (MTF)*. (1) Naval MTFs are responsible for ensuring potential MCRA/10 U.S.C. 1095 claims are brought to the attention of the appropriate JAG designee.

(2) The MTF reports all potential MCRA/10 U.S.C. 1095 cases by forwarding a copy of the daily injury log entries and admission records to the cognizant JAG designee within 7 days of treatment for which a third party may be liable. The JAG designee makes the determination of liability. Recovery for the costs of MTF care is based on Diagnostic Related Group rates or a Relative Value Unit. Rates are established by the Office of Management and Budget and/or the DoD, and published annually in the FEDERAL REGISTER.

(c) *TRICARE Fiscal Intermediary*. The TRICARE fiscal intermediary is required to identify and promptly mail claims involving certain diagnostic codes to the cognizant JAG designee. Claims are asserted for the actual amount that TRICARE paid.

(d) *Department of Justice (DoJ)*. Only the DoJ may authorize compromise or waiver of an MCRA/10 U.S.C. 1095 claim in excess of \$100,000.00 or settle an MCRA/10 U.S.C. 1095 claim in which the third party has filed a suit against the United States as a result of the incident which caused the injury and upon which the claim is based.

[72 FR 53428, Sept. 19, 2007]

§ 757.14 Claims asserted.

(a) *General*. The DoN asserts MCRA and 10 U.S.C. 1095 claims when medical care is furnished to Navy and Marine Corps active duty personnel, retirees, or their dependents, or any other person when appropriate, and third-party